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APPENDIX IV

[Vide Debate at page 61 *supra*]

BILL No. 12 OF 1924

REPORT OF THE SELECT COMMITTEE ON THE
MADRAS CIVIL COURTS BILL.

To

THE HONOURABLE THE LEGISLATIVE COUNCIL
OF THE GOVERNOR OF MADRAS.

WE, the members of the Select Committee, appointed to consider the Madras Civil Courts Bill (Bill No. 12 of 1924) have the honour to submit the following report.

2. The Bill was published in the *Fort St. George Gazette* in English on 5th August 1924, in Tamil, Telugu, Malayalam, Kanarese, on 2nd September 1924, and in Hindustani on 9th September 1924.

3. We held our meeting on the 26th September.

4. The changes made in the clauses in the Bill are explained below :—

Preamble.—We consider that the words “subordinate to the High Court” which occur in the existing Act should be inserted.

Clause 3.—We have amended this clause, so as to make it obligatory for the Local Government to obtain the sanction of the Legislative Council before increasing the number of permanent courts.

Clause 4.—We have inserted the words “in consultation with the High Court” and “by notification” in this clause.

Clause 5.—We have considered the administrative and other difficulties that are likely to arise in regard to (i) control over establishments, and (ii) distribution of work, in cases in which the principal officer happens to be junior to the additional officer. We generally accept the principle suggested by the Hon'ble the Law Member that the distribution of work should rest with the senior

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of the two officers while in regard to control over establishments, the main idea should be to secure continuity of supervision. The subject should be regulated by rules.

Clause 6.—We decided by a majority that the Local Government should be the authority competent to decide the place at which District Munsifs' courts shall be held. The Government of India having ruled that only the Indian legislature had the jurisdiction to legislate so as to increase or curtail the power or authority of the High Court vested in it at the commencement of the Act, the Hon'ble the Law Member, in pursuance of the ruling, felt himself compelled to rule this as *ultra vires*.

Clause 7.—We have omitted explanation (1) as it is unnecessary. We have also omitted all reference to the power of the Local Government to annul appointments made by the High Court. This power has never been exercised hitherto.

Clause 11.—We have considered carefully the question of the jurisdiction of District Munsifs and decided that it shall extend to suits and proceedings of which the amount or value of the subject matter does not exceed Rs. 3,000. We have accordingly omitted the proviso.

The Hon'ble the Law Member intimated to us the decision of the Government of India that the provision in the original draft Bill, under which it was proposed that appeals from subordinate courts in suits of which the amount or subject matter does not exceed Rs. 5,000 should lie to the High Court instead of to the District Judges as at present, would be *ultra vires* of the local legislature in view of section 106 of the Government of India Act. At his instance we discussed the possibility of raising the jurisdiction of District Munsifs to Rs. 5,000 so that appeals from Subordinate Judges to District Judges might be avoided but came to the conclusion that the proposed increase in pecuniary jurisdiction should not be supported.

Clause 16.—We have omitted the 'Explanation' as we consider that in such cases only a court of superior status should pass orders, i.e., a subordinate court in the case of a District Munsif, etc.

Clause 18.—We have simplified this clause by adopting the language and scheme of clause 17.

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Clause 21.—We consider that the High Court, as the authority competent to appoint District Munsifs, should be the only authority empowered to suspend or remove District Munsifs.

Clause 24.—We consider that the clause should be omitted. It should be possible for the High Court to pass orders in all such cases prior to suspension.

5. In clause 3 we have provided that the courts in existence at the date of the Act shall be deemed to have been fixed under the Act. In clause 6, we have made a similar provision about the places at which courts are held at the date of commencement of the Act and in clause 18 about ministerial officers holding office on that date. Express power has also been taken in clause 10 to vary the local limits of jurisdiction once fixed and in clause 14 for withdrawal of jurisdiction. Though such powers follow from the provisions of the General Clauses Act, we think it desirable to embody them in the Bill itself.

6. We are of opinion that the alterations made by us in this Bill are not of such importance as to require republication of the Bill and direct that the Bill shall not be republished.

C. P. RAMASWAMI AYYAR.
T. R. V. SASTRI.
C. V. S. NARASIMHARAJU.
P. N. MARTHANDAM PILLAI.
* S. SATYAMURTI.
* B. MUNUSWAMI NAYUDU.
* YAHYA ALI SAHIB.
* R. VEERIAN.
P. W. PARTRIDGE.
* J. A. SALDANHA.
A. S. KRISHNA RAO.
T. A. RAMALINGAM.
M. KRISHNAN NAYAR.
C. V. VENKATARAMANA AYYANGAR.
* P. SUBBARAYAN.
P. C. ETHIRAJULU NAYUDU.
T. M. NARASIMHACHARLU.
* O. TANIKACHALA CHETTIYAR.

9th October 1924.

* Subject to minute of a dissent.

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MINUTES OF DISSENT.

I

I have signed the Select Committee Report, subject to the following minute of dissent :—

Clause 3.—I want this clause amended so as to provide that it shall be obligatory for the Local Government to obtain the sanction of the Legislative Council, not only before increasing the number of permanent courts but also before permanently changing the number in the several classes of Civil Courts as defined in clause 2 of the Bill.

Clause 6.—I want that the High Court should have the power of appointment to all judicial offices in the Presidency. They are admittedly the most competent body and least amenable to political influence. Moreover, all reasonable communal claims should be safe in their hands. However, in view of the Chairman's ruling I could not press my amendment.

Clause 11.—I am for the jurisdiction of all District Munsifs being raised to Rs. 4,000.

1st October 1924.

S. SATYAMURTI.

II

I am strongly of opinion that the High Court should be divested of the purely administrative functions conferred by sections 6, 7, 21, 22 and 23 and that the same should vest in the Local Government as in Bombay. It is understood that in view of the provisions of the Government of India Act and the terms of the Letters Patent, any amendment seeking either to reduce or to enhance the powers and authority possessed by the High Court on the date of the passing of the former Statute will be *ultra vires* of the powers of a Provincial Legislature, but, that if a resolution to such effect is moved and carried in the local council, the Imperial Government will in all probability be willing to initiate legislation on the lines indicated. Since this is not merely an amending but is also a consolidating measure and the changes proposed under the aforementioned sections of the Bill and more particularly those

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provided under section 7 have been advocated by a large section of the Legislative Council, I personally think that it would be expedient either to defer further proceeding with the Bill till the Indian Legislature has enacted the desired changes or simultaneously with this Bill to concert measures with a view to moving in the Council suitable resolutions for the requisite purpose. The need to take some such step becomes greater in view of the undoubtedly desirable and necessary elimination of the last clause to section 7 which had provided for a reserve power of control in the hands of the Local Government.

I am not ardently in favour of enhancing the small cause jurisdiction of the District Munsifs, as provided in section 13 nor of vesting absolutely in the Local Government, without providing for the previous positive approval of the Legislative Council, of power to make rules for all appointments, supervision and removal of Judicial officers.

Among matters provided in section 14 to be governed by the personal law of the litigants, I would emphatically urge particularly in the interests of the Mussalmans that guardianship should also be included. I apprehend that Statute Law has committed the largest inroads upon the Shariat law of the Mussalmans in respect of questions of guardianship and minority and I have no doubt that the Mussalman community will very much desire to restore the law as was laid down by their own schoolmen and jurists.

1st October 1924.

YAHYA ALI.

III

I sign the report subject to the following remarks :—

1. The Madras Civil Courts Act was passed in 1873, and under that Act the power of appointment in regard to District Munsifs was vested in the High Court of Judicature. Power was reserved at the same time to the Local Government to annul any appointment made by the High Court for good and sufficient reason (section 7). Under section 18 the Local Government may suspend or remove any District Munsif for misconduct. The Committee by a majority decided to curtail the power of the

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Local Government in both these respects. I respectfully beg to dissent from that view. The District Munsifs are gazetted officers and but for the accident they happen to be munsifs, they are not any the less qualified or competent than those who happen to be Sub-Judges. I think therefore that no invidious distinction need be made between District Munsifs and Sub-Judges or District Judges. All of them should be liable to be suspended or removed by the Local Government.

2. Another question that has been the subject of consideration and discussion for some time, though from different points of view, is that the power of appointment in respect of District Munsifs also should be vested in the Local Government as in the case of Sub-Judges and District Judges.

3. The Royal Commission on Public Services in India, in dealing with the method of selection for the Judicial branch state as follows :—

“ In such case the prerogative of Government to appoint all their officers would be established but they should in every case act with the advice of the highest judicial authority available. To bring this about legislation would be required in certain provinces and *we recommend that this be undertaken*” (page 191). Though this recommendation was made in 1916, it is much to be regretted that the Government have not seen their way to accept the same and carry it out in this Bill the object of which is to amend the present Civil Courts Act.

4. The Hon'ble the Law Member explained to the Committee that it was incompetent for the local legislature to amend the Act as above recommended in view of section 106 of the Government of India Act. It is hoped that the Government will be pleased to take early steps to move the Government of India to take suitable action in the matter to give effect to the recommendation.

5. The Royal Commission on Public Services in India also state that in making rules relating to recruitment of Provincial Civil Services, “ the rules must be adapted on the one hand to obtain thoroughly efficient candidates and on the other *to secure the due representation in the public service of the different classes of community*” (page 188). The experience in the past in regard to recruitment of District Munsifs by the High Court has been that a single

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class of the community enjoys a virtual monopoly of the offices to the prejudice of other classes. The reasons for this state of affairs are various and I do not propose to deal with them here. Suffice it to say that the Honourable the Judges of the High Court have not had the principle above referred to more prominently in their view. And I think it is in the interests of maintaining the respect that is due to the Highest Court of Justice in this province and to remove it from the pale of criticism, that this power of appointment should be revested in the Local Government.

1st October 1924.

B. MUNUSWAMI NAIDU.

IV

In clause 23, the power of the High Court is fully declared; so addition in clause 21 is superfluous in the case of District Munsif.

Section 17.—In the addition, remove the following :—

“ or if the court consists of more than one Judge by the Principal Judge thereof whose order in such matter shall ” and *substitute* the following :—

“ Where the court is presided over by more than one Judge then the District Judge shall declare which of the establishment should be deemed to be subordinate to which of the Judges in the said Court. This power shall be exercised by the respective Judges with reference to the subordinate officers so declared.”

Clause 6.—The phrase “ Places fixed for any court ” is indefinite, e.g., all Ramnad District and Subordinate Courts are in Madura Town. The term “ Places ” may mean the whole town. That is not the intention. *Recast* the clause as follows :—

“ Where a court is located outside its local jurisdiction, the court premises shall be deemed to be within its local jurisdiction.”

Clause 5.—The description, Principal and Additional, seems unnecessary. It may be enough to say first court, second court and so on as in the Madras Small Cause Court.

2nd October 1924.

R. VEERIAN.

[3rd February 1925]

V

Clause 10.—I adhere to my opinion that the pecuniary jurisdiction of District Munsifs should be raised to Rs. 5,000, because (1) the value of silver money has considerably decreased and (2) immovable property is valued for jurisdiction higher on the increased court fees, so that the old pecuniary jurisdiction may be maintained. In the neighbouring presidency of Bombay, District Munsifs (Second-class Sub-Judges) enjoy jurisdiction up to Rs. 5,000 and there appears no reason why equally qualified judicial officers should be treated differently here. At the same time either the Bombay practice of calling District Munsifs second-class Sub-Judges and Sub-Judges first-class Sub-Judges may be followed in Madras, or the old Indian name of *Sadr Amin* may be adopted in case of Sub-Judges while the Indian term District Munsif is retained.

Clause 14.—My proposal for treating Canon Law in regard to Roman Catholics on a footing of equality with Hindu and Muhammadan law so far as Hindus and Muhammadans are concerned, was negatived by the Select Committee, but I beg to urge the point for the consideration of the Council for the reasons given in a separate note.

2nd October 1924.

J. A. SALDANHA.

ENCLOSURE.

Recognition of Canon Law.

Clause 14 of the Bill reproduces the provision in the old Madras Civil Courts Act laying down that the law applicable will, as to succession, inheritance, marriage, caste and any religious usages and institutions, be (a) in the case of Hindus, Hindu law; (b) in the case of Muhammadans, Muhammadan law; (c) custom which has acquired the force of law unless such law or custom has been modified by statutory enactment; (d) otherwise the rule according to justice, equity and good conscience. It is of the highest importance that this opportunity should be taken to prevail upon the Legislature to recognize the *Canon Law*, i.e., the Ecclesiastical Law, promulgated by His Holiness the Pope applicable to *Roman Catholics of the Latin rite*. Roman Catholics in this Presidency numbering about a million, though a small fraction of the population, are proud to belong to a compact united body of over 300 millions of the world's population dispersed over every country of the globe, but having the same creed,

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worship and discipline under one spiritual ruler and administrator the Supreme Pontiff of Rome with the advice of a very learned and experienced body of Cardinals, Congregations and Committees. Though practically occupying the position of a dictator, the Pope is the head of a most democratic institution as he may be elected from among the poorest, provided he is the best qualified by his virtue, experience, learning and wisdom. Such a large organized body, which no other religion can boast of must have laws and regulations formulated by the Councils of the Church under the authority of the Pope or promulgated by him for the administration of the sacraments including marriage and for the government of the various institutions of the Church. These laws, called Canons, were often collected together in the past, but were unified and codified finally in 1917 into one Codex, after a laborious task of a Committee of experts for some 13 years in consultation with all the bishops and canonists all over the world. The influence of the Canon Law on the Civil Law of Europe and especially on the Common Law of England is briefly described in Halsbury's Laws of England—Article on Ecclesiastical Law, in the Encyclopedia Britannica and the Catholic Encyclopedia and several other works. It is referred to with reference to its beneficent influences in several places by Sir Henry Maine. So far as Protestants are concerned, no provisions of Canon Law can apply to them except those of the mediaeval Canon Law which have been engrafted into their Ecclesiastical Law or survive therein.

The new Code of Canon Law comprises 2,414 canons divided into four books; I. General Principles; II. Laws concerning persons; III. Sacred things including the Sacrament of Matrimony and other Sacraments; IV. Trials; V. Offences and Penalties. In regard to thoroughness, lucidity and methodical arrangement it is one of the most magnificent codes existing according to the estimate of expert lawyers, who have read the work. Such an excellent codified law which no other religion can boast of possessing and which is recognized as binding by over 300 millions of the world's population deserves, I would urge, at least the same place of rank as the various conflicting codes of Hindu and Muhammadan Laws.

It is here necessary to draw attention to a few points in connexion with the application of Canon Law: (1) Customs existing from time immemorial with the assent of ecclesiastical superiors are binding as law unless expressly disapproved by the code (see Canon 5 and 25). (2) The code is binding on all Catholics of the Latin rite, but not of those of the Oriental rite, except those points which of their very nature affect the Oriental Church ("Canon I. Licet in codice juris canonici Ecclesiae quoque Orientalis disciplinae saepe referatur ipse tamen unam resicit Latinam Ecclesiam, neque Orientalem obligat, nisi de is agatur quae ipsa rei nature etiam Orientalem afficiunt."). (3) Canon Law is capable of being amended by the Supreme Pontiff or the Congregations under his control to meet the constantly changing needs of the

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Catholics and new situations subject to the essential principles of their religion and moral laws, which are immutable, e.g., that marriage is a sacrament which once validly contracted is indissoluble (4) It is true that the Indian Legislature has enacted for the Christians a Succession Act and Marriage and Divorce Acts. But these enactments do not take into account the essential feature of the Catholic marriage, i.e., that it is sacramental and indissoluble, and various other points such as the legitimacy of the off-spring. The Indian Christian Marriage Act in section 5 (1) provides for solemnization of marriage by a Priest according to the rules, rites, customs, and ceremonies of the Church of which he is a minister. These rules, rites, etc., which are embodied in the Canon Law have run the gauntlet of litigation in courts on account of claims laid for the application for the English Ecclesiastical Law to Catholics in India bearing European names and following European habits of life. (*Lopez v. Lopez* 12 Calcutta, 706). In the same case the prohibited degrees for the parties to be married were held to be those according to their customary law and Canon Law was treated as their customary law. But it must be borne in mind that Canon Law is not only based upon customary law but includes a large number of decrees of general councils and the Pope and derives its authority from the will of the Church. On the other hand there are authorities to show that Canon Law is recognized in India not on the ground of the authority of the Church but as forming part of the usage and custom of the Catholic parties concerned (see pages 119 and 120 of the writer's book *Civil Ecclesiastical in India* published by the Indian Catholic Truth Society—Trichinopoly). What is claimed is that just as codes of Hindu Law like the *Mitakshara* are recognized as applicable to the Hindus on account of their inherent authority, so should the Canon Law be recognized as applicable to Roman Catholics. (5) It is not expected that there would be a conflict between the loyalty of the Catholics to their church and their loyalty to the State, because the conflict will be, if at all, between certain spiritual ideals as to the sanctity of marriage and other points and the Civic ideas of the State Laws. Besides provisions of the Canon Law cover a number of other points, e.g., religious institutions which include religious endowments (vide the writer's *Civil Ecclesiastical Law—Part III*) not affected by Indian statutory enactments on which decisions of courts are not quite clear enough or uniform.

J. A. SALDANHA.

2nd October 1924.

VI

In clause 7, I should have liked to have vested the power of appointment of District Munsifs also in the Local Government who appoint District Judges and

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Subordinate Judges. This matter was not pressed in the Committee owing to the Hon'ble the Law Member's ruling that it was *ultra vires* of the Local Council. I should like the Government when they address the Government of India on the question of appeals from District Munsifs direct to the High Court in the matter of suits whose money value exceed Rs. 5,000 to also bear this in mind and address the India Government also on this point.

5th October 1924.

P. SUBBARAYAN.

VII

While approving of the Bill as passed through the Select Committee, I regret it has not been possible to include an amendment vesting in Government the right to make the appointments of District Munsifs on the recommendation of the High Court, if necessary, while such a power has been retained by the Government in respect of higher judicial appointments such as the District Judge and the Subordinate Judge, it has been urged as an objection to such amendment that it cannot be introduced except by the intervention of the Legislative Assembly. Since the Reformed Council was constituted a large section of the peoples' representatives have unmistakably expressed themselves in favour of such a modification. We all expected this amendment would find a place in any Bill which might be brought by Government or that it would have been possible to effect a change in the Select Committee. One feels that without such an alteration, an amendment of the Civil Courts Act is not complete.

O. THANIKACHALLA CHETTI.

8th October 1924.

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[Note.—The alterations made by the Select Committee are printed in clarendon type.]

BILL No. 12 OF 1924

A Bill to consolidate and amend the law relating to the Civil Courts of the Madras Presidency outside the Presidency town subordinate to the High Court.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to the Civil Courts of the Madras Presidency outside the Presidency town subordinate to the High Court AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act; It is hereby enacted as follows:—

CHAPTER I

Preliminary

Short title. 1. This Act may be called the 'Madras Civil Courts Act, 1924.'

Local extent. It extends to the Presidency of Madras (outside the Presidency town) except the scheduled districts.

Commence-
ment. And it shall come into force on such day as the Local Government may, by notification, appoint.

CHAPTER II

Establishment and constitution of civil courts and appointment of Judges

Classes of
courts. 2. There shall be the following classes of civil courts under this Act, namely,—

(a) the District Court;

(b) the Court of the Subordinate Judge; and

(c) the Court of the District Munsif.

Establish-
ment of
courts. 3. The number of courts under this Act (shall be fixed and) may, from time to time be altered by the Local Government. Provided that no alteration shall be made in the number of courts except with the sanction of the Legislative Council. The number of courts in

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existence at the date of the commencement of the Act shall be deemed to have been fixed under the Act.

4. The Local Government may, in consultation with the High Court, fix and from time to time vary by notification the number of Subordinate Judges to be appointed for a Subordinate Judge's Court or the number of District Munsifs to be appointed for a District Munsif's Court.

Number of Subordinate Judges and District Munsifs.

5. When more than one Subordinate Judge is appointed to a Subordinate Judge's Court or more than one District Munsif to a District Munsif's Court, one of the Subordinate Judges or the District Munsifs shall be called the Principal Subordinate Judge or Principal District Munsif and others Additional Subordinate Judges or Additional District Munsifs as the case may be.

Powers of Additional Subordinate Judges and District Munsifs when appointed to a court.

Each of the Judges appointed to a Subordinate Judge's Court or a District Munsif's Court may exercise all or any of the powers conferred on the Court by this Act or any other law for the time being in force.

Subject to the general or special orders of the District Judge, the Principal Subordinate Judge or the Principal District Munsif may, from time to time, make such arrangements as he thinks fit for the distribution of the business of the court among the various Judges thereof.

6. The place at which any court under this Act shall be held may be fixed, and may from time to time be altered,

Courts — Locality.

in the case of a District Court or a Subordinate Judge's Court, by the Local Government, and

in the case of a District Munsif's Court, by the High Court. The places at which the civil courts are being held at the date of the passing of this Act shall be deemed to have been fixed under this Act.

The places fixed for any court under this section shall be deemed to be within the local jurisdiction of that court.

7. The Local Government, whenever the office of a District Judge or a Subordinate Judge is vacant and the High Court whenever the office of a District Munsif is vacant, shall appoint to the office a duly qualified person.

Appointment to vacancy in the office of District Judge, Subordinate Judge or District Munsif.

Omitted.

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Explanation.—A person appointed to the office of a District Munsif shall possess the qualifications as required by the rules now in force or which the High Court may with the previous sanction of the Local Government hereafter make.

Omitted.

Temporary
discharge of
duties of
District
Judge.

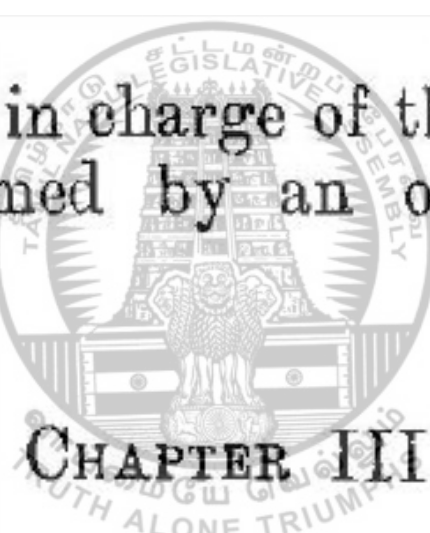
8. In the event of the death of the District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties,

or of his absence from the station in which the court is held,

the senior Subordinate Judge at the station shall, without interruption to his ordinary duties, assume charge of the District Judge's office and shall discharge such of the current duties thereof as are connected with the filing of suits and appeals, the execution of processes and the like,

and shall continue in charge of the office until the same is resumed or assumed by an officer duly appointed thereto.

9. Omitted.



CHAPTER III

Jurisdiction

Local limits
of the juris-
diction of
District
Courts, Courts
of Subor-
dinate Judges
and District
Munsifs.

10. The local limits of the jurisdiction of District Courts shall be fixed and may from time to time be varied by notification by the Local Government and of courts of Subordinate Judges and District Munsifs by the High Court.

The present local limits of the jurisdiction of the civil courts to which this Act applies shall be deemed to have been fixed under this Act.

Jurisdiction
of District
Courts and
Courts of
Subordinate
Judges.

11. Save as otherwise provided by any enactment for the time being in force, the jurisdiction of District Courts and Courts of Subordinate Judges extends, subject to the provisions of the Code of Civil Procedure, 1908, to all original suits and proceedings of a civil nature.

Act V of 1908

Jurisdiction
of a Court of
a District
Munsif.

Subject to like limitations, the jurisdiction of a Court of a District Munsif extends to all like suits and proceedings of which the amount or value of the subject-matter does not exceed Rs. 3,000.

Omitted.

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12. When an appeal is allowed by law, the court Appeals authorized to hear the appeal shall be—

- | | | |
|---|---|---------------------|
| (1) (a) In the case of an original decree of the District Court and | } | The High Court. |
| (b) In the case of an original decree of the Court of a Subordinate Judge when the amount or value of the subject-matter of the suit exceeds Rs. 5,000. | | |
| (2) From an original decree of a Court of a Subordinate Judge in cases not provided by clause (1) (b) above and from every decree of a District Munsif's Court. | } | The District Court. |

Provided that the District Court may, subject to the orders of the High Court, refer any appeals from the decrees and orders of District Munsifs preferred in the District Court to any Subordinate Judge's Court within the district.

Provided also that whenever a Subordinate Judge's Court is established in any district at a place remote from the station of the District Court, the High Court may, with the previous sanction of the Local Government, direct that appeals from decrees and orders from the courts of District Munsifs within the local limits of the jurisdiction of such court of Subordinate Judge be preferred in the latter court.

With regard to any appeal so referred or preferred, the Subordinate Judge's court concerned shall be deemed the court authorized to hear the appeal.

13. When the subject-matter of any suit or proceeding is land, a house or a garden its value shall, for the purpose of the jurisdiction conferred by this Act, be fixed in the manner provided by clause V of section 7 of the Court Fees Act, 1870, as amended by the Madras Court Fees (Amendment) Act, 1922.

Valuation of suits for immovable property.

Act VII of 1870.
Mad. Act V of 1922.

14. The High Court may, by notification, invest, within such local limits as it shall from time to time appoint :

any District or Subordinate Judge with the jurisdiction of a Judge of a Court of Small Causes for the trial of suits cognisable by such courts up to the amount of Rupees five hundred ;

Investiture of District Judge or Subordinate Judge with small cause jurisdiction.

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Investiture of District Munsif with small cause jurisdiction.

and any District Munsif with the same jurisdiction up to the amount of Rupees three hundred.

and may, by like notification when it thinks fit withdraw such jurisdiction from the District or Subordinate Judge or Munsif so invested.

Law administered by courts to Indians.

15. When, in any suit or proceeding it is necessary for any court under this Act to decide any question regarding succession, inheritance, marriage, or caste or any religious usage or institution,

(a) the Muhammadan Law in cases where the parties are Muhammadans,

and the Hindu Law in cases where the parties are Hindus, or

(b) any custom (if such there be) having the force of law and governing the parties or property concerned,

shall form the rule of decision unless such law or custom has, by legislative enactment, been altered or abolished,

(c) in cases where no specific rule exists, the court shall act according to justice, equity and good conscience.

Judges not to try suits in which they are interested.

16. No District Judge, Subordinate Judge or District Munsif shall try any suit to or in which he is a party or personally interested or shall adjudicate upon any proceeding connected with, or arising out of, such suit.

Nor to try appeals from decrees or orders passed by them in other capacities.

No District Judge or Subordinate Judge shall try any appeal against a decree or order passed by himself in another capacity.

Mode of disposing such suits and appeals.

When any such suit, proceeding or appeal comes before any such officer, he shall report the circumstances to the officer to whom he is immediately subordinate. The superior officer shall thereupon dispose of the case according to law.

Omitted.

CHAPTER IV

Ministerial officers

Appointment, suspension or removal of ministerial officers of District Courts.

17. The ministerial officers of the District Courts shall be appointed, and may be suspended or removed, by the Judges of such courts, whose orders in such matters shall, subject to the control of the High Court, be final.

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18. The ministerial officers of the Court of a Subordinate Judge or of a District Munsif shall be appointed and may be suspended or removed by the Judge thereof or if the court consists of more than one Judge by the principal Judge thereof whose order in such matter shall, subject to the control of the District Judge and the High Court, be final.

Appointment, etc., of ministerial officers of Subordinate Courts.

The existing ministerial officers of the civil courts falling under this Act shall be deemed to have been appointed under the provisions of this Act.

19. The appointment, suspension or removal of officers under this chapter shall be made subject to such rules as the Local Government from time to time prescribes in this behalf.

Rules regulating such appointments or punishments.

Every person appointed under this chapter shall perform such duties as may from time to time be imposed upon him by the presiding officer of the court to which he belongs.

Duties of ministerial officers.

20. (1) The High Court may transfer all or any of the ministerial officers of any civil court subject to its superintendence to any other such court.

Transfer of ministerial officers.

(2) The District Judge may transfer all or any of the ministerial officers of any court under his control to any other such court.

CHAPTER V

Misconduct of Judges.

21. The Local Government may suspend or remove any District Judge or Subordinate Judge for any misconduct.

Suspension of Judge by Local Government.

22. The High Court may, whenever it sees urgent necessity for so doing, suspend a Subordinate Judge pending the orders of the Local Government.

Suspension of Subordinate Judge by High Court.

The High Court shall immediately report the circumstances of such suspension, and the Local Government shall make such order thereon as it thinks fit.

23. The High Court may suspend any District Munsif who is alleged to have misconducted himself, or may appoint a commission for enquiring into his alleged misconduct.

Suspension of District Munsif by High Court and commission of enquiry.

The provisions of Act XXXVII of 1850 (for regulating enquiries into the behaviour of public servants) shall apply to enquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court.

Exercise by High Court of powers conferred on Government by Act XXXVII of 1850.

[3rd February 1925]

On receiving the report of the result of any such enquiry, the High Court may, if it thinks fit, remove the Munsif from office, or suspend him or inflict such other punishment as it may deem proper.

24. Omitted.

CHAPTER VI

Miscellaneous

25. Every court under this Act shall use a seal of such form and dimensions as may, for the time being, be prescribed by the Local Government.

Seal of Court.

District Judge to control Civil Courts of District.

26. Subject to the other provisions of this Act and to the rules for the time being in force and prescribed by the High Court in this behalf, the general control over all the Civil Courts under this Act in any district is vested in the District Judge.

Vacation.

27. The High Court may permit the Civil Courts under its control to adjourn from time to time for periods not exceeding in the aggregate two months in each year.

Enactments repealed.

28. The enactments mentioned in the schedule are hereby repealed to the extent specified in the fourth column thereof :—

SCHEDULE
(Section 28.)

Year. (1)	Number. (2)	Subject or short title. (3)	Extent of repeal. (4)
<i>Acts of the Governor-General in Council.</i>			
1873	III	The Madras Civil Courts Act, 1873.	So much as has not been repealed.
1877	XIX	The Madras Civil Courts (Amendment) Act, 1877.	Do.
1885	XXI	The Madras Civil Courts Act, 1885.	Do.
1914	IV	The Decentralization Act, 1914.	In Part I of the Schedule, the entries relating to the Madras Civil Courts Act, 1873.
<i>Acts of the Local Government.</i>			
1916	III	The Madras Civil Courts (Amendment) Act, 1916.	The whole Act.
1919	VI	The Madras Civil Courts (Amendment) Act.	Do.